

Evaluating Mediations and Facilitations: Design Document

A variety of non-adversarial, participatory processes are available as adjuncts or alternatives to conventional forums for solving environmental problems or resolving environmental conflicts. Such collaborative processes range broadly depending on the nature of the issue and the parties involved as well as their context (for example, early on in policy development, planning processes, when seeking administrative relief, or during litigation). Under the right circumstances, a well-designed collaborative process facilitated or mediated by the appropriate mediator/facilitator (neutral practitioner) can effectively assist parties in reaching agreement on plans, proposals, procedures, and recommendations to address their issue or resolve their conflict. Collaborative processes can also result in benefits such as improvement in relationships among the parties, and increased capacity among the parties to manage and resolve the issue or dispute. The following survey instruments have been designed for use across the broad range of collaborative processes, be it a process to reach agreement on a plan or a set of recommendations or environmental mediation to resolve a dispute.

The U.S. Institute for Environmental Conflict Resolution (U.S. Institute), in partnership with several federal and state agencies, has created a system to evaluate environmental conflict resolution and collaborative problem solving processes (e.g., mediations and facilitations). The evaluation system facilitates (a) performance measurement and reporting, (b) diagnosis of what factors influence success (i.e., the achievement of desired outcomes and impacts), and (c) continual learning and improvement when evaluation information is gathered, analyzed, and

shared with practitioners, program managers/administrators, users, and other appropriate audiences.

Background

In 1999, the U.S. Institute, in cooperation with the Policy Consensus Initiative¹ and state alternative dispute resolution programs, began the task of designing a program evaluation system. After extensively piloting the evaluation instruments staff from the U.S. Institute, PCI, Oregon Dispute Resolution Commission, Oregon Department of Justice, Florida Conflict Resolution Consortium, Environmental Protection Agency - Conflict Prevention and Resolution Center (CPRC), and the Department of Interior - Center for Alternative Dispute Resolution (CADR), joined forces to collaboratively revise the evaluation instruments. The collaboratively developed evaluation system has also benefited from in-depth input from over 40 practitioners, program administrators, evaluators, researchers and trainers. Evaluation consultants Dr. Kathy McKnight and Dr. Lee Sechrest, the University of Arizona, assisted with this effort. Evaluation consultant Dr. Andy Rowe, GHK International, guided the earlier evaluation design. Throughout this effort, the William and Flora Hewlett Foundation has provided financial assistance.

Evaluation information will be collected from members of the public who are participants in, and users of, these services. Before such information can be collected by a federal agency, the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) requires approval from the Office of Management and Budget (OMB). The U.S. Institute's current collection authorization expires on June 30, 2005. The U.S. Institute is hoping to receive approval to use a revised set of instruments prior to the expiration of the current collection authorization.

¹ PCI is a national, nonpartisan organization that works with state leaders – governors, legislators, attorneys general, and state courts – to promote the use of consensus-building and conflict resolution practices to address difficult policy issues and achieve more effective governance.

In 2003, the CPRC was granted the approval of OMB to act as a named administrator of the U.S. Institute's currently approved information collections for evaluation. The CPRC and the U.S. Institute will seek approval as part of this proposed collection to continue this evaluation partnership. Other agencies have approached the U.S. Institute seeking (a) evaluation services and (b) assistance in establishing their own internal evaluation systems. Therefore, the U.S. Institute will request OMB approval to administer the evaluation questionnaires on behalf of other agencies.

Design Elements and Data Collection

The evaluation system designed draws from environmental conflict resolution operating assumptions and program theory. The U.S. Institute developed a conceptual model (i.e., logic model) to visually represent the major components and stages of a collaborative process (Figure 1). The conceptual model was then used to structure and guide the design of a comprehensive evaluation system.

The logic model is divided into four components (a) desired conditions, (b) expected process dynamics, (c) end of process and longer-term outcomes, and (d) impacts. The logic model helps visually depict the expected dynamics between basic conditions (e.g., key inputs), expected process dynamics, desired outcomes, and impacts of collaborative processes. Once the major components were specified, key elements subsumed under each component were identified (Table 1), and criteria to measure the achievement of these elements were developed. Over 100 evaluation criteria were identified in the environmental conflict resolution literature to help inform this process.²

² The literature review was conducted by Dr. Julie Macfarlane, University of Windsor and Dr. Bernard Mayer, CDR Associates on behalf of the U.S. Institute with the financial support of the William and Flora Hewlett Foundation.

The Environmental Conflict Resolution and Collaborative Problem Solving Logic Model: A Visual Way to Depict Program Theory



Environmental Conflict Resolution and Collaborative Problem Solving Evaluation Model

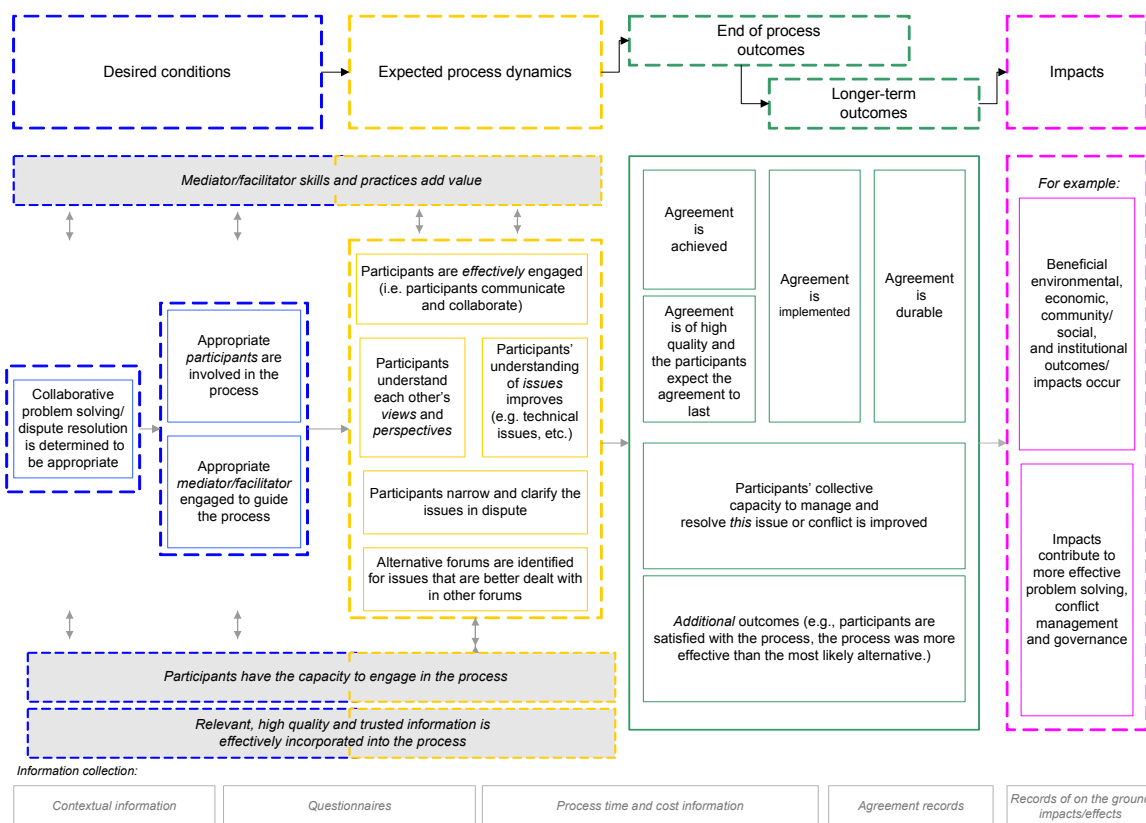


Figure 1. Environmental Conflict Resolution and Collaborative Problem Solving Conceptual Model (Logic Model)

In designing the evaluation system, emphasis was placed on feedback solicited from participants. In addition, evaluation feedback is also solicited from the process mediator/facilitator and the project manager/administrator.

Immediately following conclusion of a mediation/facilitation process, the participants that have been involved will be surveyed once, via questionnaire, to determine their views on a variety of issues. Topics to be investigated include: are the parties now more likely to consider collaborative processes in the future; were the appropriate participants effectively engaged; did the participants have the capacity to engage in the process; was the mediator/facilitator that guided the process appropriate; and did all participants have access to relevant information? The voluntary questionnaire contains 27 questions requiring respondents to provide fill-in-the blank and open-ended responses (Appendix A). Information from the questionnaire will provide the opportunity to evaluate if the intended outcomes were achieved, and if so or not, why. *Affected Entities*: Entities potentially affected by this action are parties to the collaborative processes. *Burden Statement*: It is estimated that the annual national public burden and associated costs will be approximately 600 hours and \$23,400 respectively. These values were calculated assuming that on average: a) participants require 20 minutes per questionnaire; b) there are 12 respondents per case; c) respondents are requested to complete this surveyed only once; and d) there will be 150 cases evaluated each year. Cost burden estimates assume: a) there are no capital or start-up costs for respondents, and b) respondents' time is valued at \$39/hr.

To gain information concerning the longer-term effectiveness of the mediation/facilitation process, a follow-up questionnaire will be administered to the parties at a future date following conclusion of the process. Topics to be examined include: do all participants perceive an

improvement in their collective relationships; is the agreement likely to be durable; and what outcomes have resulted from the agreement. The voluntary questionnaire contains 12 questions requiring respondents to provide fill-in-the blank and open-ended responses (Appendix B). Information from the questionnaire will permit U.S. Institute staff to evaluate if the outcomes were sustainable, and if not, why not. The information will also facilitate the assessment of the longer-term impacts of the collaborative processes and agreements. *Affected Entities*: Entities potentially affected by this action are participants to mediations/facilitations. *Burden Statement*: It is estimated that the annual national public burden and associated costs will be approximately 300 hours and \$11,700, respectively. These values were calculated assuming that on average: a) participants require 10 minutes per questionnaire; b) there are approximately 12 respondents per project; c) respondents are asked to complete this questionnaire only once; and d) there will be 150 cases evaluated each year. Cost burden estimates assume: a) there are no capital or start-up costs for respondents, and b) respondents' time is valued at \$39/hr.

Immediately following conclusion of a mediation/facilitation process, the mediator(s)/facilitator(s) will be surveyed once, via questionnaire, to determine their views on a variety of issues. Topics to be investigated include: was the collaborative approach well suited to the nature of the issues in conflict; were all key parties consulted, and, were all key issues and alternatives properly identified and considered? In most cases, it will be specified in the mediator/facilitator contracts that they are required to complete the questionnaire. The mediator/facilitator questionnaire contains 34 questions (Appendix C). Information from this questionnaire will provide the opportunity to evaluate if the intended mediation/facilitation outcomes/impacts were achieved, and if so or not, why. *Affected Entities*: Entities potentially affected by this action are mediators/facilitators are federal agency staff or contracted non-

federal professional. *Burden Statement:* It is estimated that the annual national public burden and associated costs will be approximately 100 hours and \$3,900, respectively. These values were calculated assuming that on average: a) mediators/facilitators will require 30 minutes per questionnaire; b) there are 2 respondents per project; c) respondents are surveyed only once; and d) there will be 100 cases evaluated each year.³ Cost burden estimates assume: a) there are no capital or start-up costs for respondents, and b) respondents' time is valued at \$39/hr.

A project manager/administrator questionnaire includes a subset of questions from the mediator/facilitator questionnaire.⁴

Data Use and Audiences

Information from the questionnaires will facilitate the (a) measurement and reporting of performance for case/project level mediations/facilitations, (b) measurement and reporting of program performance when the data are aggregated across all evaluated mediation/facilitation cases or projects, (c) broad-based evaluations of mediation/facilitation processes when cases/project evaluations are aggregated across multiple agencies sharing the same evaluation system, and (d) learning and improvement when feedback is used to design and execute future mediations and facilitations. The evaluation audiences include the process participants, mediators/facilitators, program managers/administrators, and the Office of Management and Budget.

³ The EPA's CPRC does not plan to administer the mediator/facilitator questionnaire as described above.

⁴ This instrument will be administered to federal program managers and unlike the other instruments this instrument does not require Office of Management and Budget information collection authorization.

Table 1. Definitions for Components of the Conceptual Model

Desired Conditions

Collaborative problem solving/dispute resolution is determined to be appropriate

This is an outcome determined by the screening and/or assessment process.

Appropriate participants are involved in the process

All key affected/concerned interests needed to successfully reach agreement were involved in the process. The representatives at the table have sufficient authority to make commitments on behalf of their organization.

Appropriate mediator/facilitator engaged to guide the process

An appropriate mediator/facilitator is one who has the skills and experience (e.g., experience with the type of case, experience with the substantive issues of the case) needed to guide the process. The participants also endorse mediator/facilitator as appropriate.

Participants have the capacity to engage in the process

The participants had the time, skills, resources, and access to needed information to participate effectively in the process.

The mediator/facilitator skills and practices add value

The mediator/facilitator made sure the participants had a realistic work plan and timeline for the process. The mediator/facilitator was fair and unbiased. The mediator/facilitator made sure the participants were effectively engaged and ensured all participants concerns were heard and addressed. When things got tense, the mediator/facilitator helped the participants move forward constructively and they ensured that no one dominated to the detriment of the process. At the conclusion of the process, the participants report they would recommend the mediator/facilitator to others in a similar situation without hesitation.

Information needs are identified and relevant quality information is incorporated into the process

Participants worked effectively to identify information needs. All participants had full access to relevant information they needed in order to participate effectively in the collaborative process. Participants understood all important information and data used in the process.

Expected Process Dynamics

Participants are effectively engaged (i.e. participants communicate and collaborate)

All participants continued to be engaged so long as their involvement was necessary, and they kept their members/constituents informed. The participants worked together cooperatively and sought options or solutions that met the common needs of all participants. During the process, the participants followed the ground rules and worked together in a manner that facilitated balanced inclusion of all affected participants/concerned interests. As a result of the process, trust was built among the participants.

Participants understand each other's views and perspectives

The participants gained a better understanding of each other's views and perspectives, and the participants came to understand each other's perspectives.

Participants' understanding of issues improves (e.g. technical issues, etc.)

The participants gained a better understanding of the issues of focus in the case (i.e., scientific, legal, economic, cultural and other).

Participants narrow and clarify the issues in dispute

The process helped the participants identify and clarify the key issues that had to be addressed to address the issues or resolve the conflict.

Alternative forums are identified for issues that are better dealt with in other forums

The process helped the participants identify appropriate alternative forums for dealing with issues that could not be handled through the process.

End of Process and Longer-term Outcomes

Agreement is achieved

Agreement is achieved on all, most or some key issues. In cases where agreement is not reached, progress is made toward solving the problem or resolving the conflict.

Agreement is of high quality and is expected to last

The agreement takes account of the participants' interests and deals effectively with key issues. The participants understand the terms of the agreement. The agreement includes responsibilities and roles for implementation, contains a mechanism for assuring the participants will know when the agreement is implemented, contains clear and measurable standards or objectives to be achieved, contains provisions for monitoring if standards or objectives are achieved, and specifies ways the agreement can be changed/modified if things don't go as planned. The agreement can be carried out and will last to meet its purpose. The agreement is flexible enough to respond to changing conditions that might occur, and the participants have built strong enough relations to ensure the agreement will last.

Agreement is implemented

The participants enacted the terms of the agreement (i.e. next steps as defined in the agreement are on track).

Agreement is durable

The participants remain committed to the agreement and have built a strong enough relationship with each other to ensure that next steps are carried out as planned. The agreement is flexible enough to respond to changing conditions that might occur.

Participants' collective capacity to manage and resolve this conflict is improved

Trust is built among the participants, and their ability to work together cooperatively to solve problems and resolve conflicts for this case is improved.

Additional Beneficial Outcomes

Satisfaction

Participants are satisfied with the process used, and they are satisfied with the results of the process.

Participants endorse collaborative processes

Participants' first choice would be to use this type of process again for similar situations, they would recommend this type of process to others in a similar situation without hesitation, and they feel they would not have progressed as far with any other process of which they are aware.

Effectiveness compared to the most likely alternative

Participants felt the process was more responsive to their needs and more effective in addressing key issues than the most likely alternative in the absence of the collaborative process. The participants felt the process was more effective in building trust among the participants and in solving the problem or resolving the dispute. The participants also felt the decisions better matched the interests of the participants and likely increased the participants' commitment to the outcome and will reduce the likelihood of challenges.

Efficiency compared to the most likely alternative

Participants felt the process was quicker and cheaper than the most likely alternative in the absence of the collaborative process. If the process took more time and/or financial resources, the participants felt the extra costs and time were worth the investment.

Benefits outweigh the costs

Participants felt the benefits outweighed the costs.

Public benefits

The process resulted in additional beneficial outcomes such as averting a crisis, avoiding litigation, etc.

Impacts

Beneficial environmental, economic, community/social, and institutional impacts occur

Impacts contribute to more effective problem solving, conflict management and governance.

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